

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

|                         |   |                                   |
|-------------------------|---|-----------------------------------|
| <b>MARC WILLIAMS,</b>   | ) | <b>CASE NO. 1: 16 CV 42</b>       |
|                         | ) |                                   |
| <b>Petitioner,</b>      | ) | <b>JUDGE CHRISTOPHER A. BOYKO</b> |
|                         | ) |                                   |
| <b>v.</b>               | ) |                                   |
|                         | ) | <b><u>OPINION AND ORDER</u></b>   |
| <b>MICHELLE MILLER,</b> | ) |                                   |
|                         | ) |                                   |
| <b>Respondent.</b>      | ) |                                   |

**CHRISTOPHER A. BOYKO, J.:**

*Pro se* Petitioner Marc Willims has filed this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, challenging his 2012 convictions, pursuant to a guilty plea, of Rape and Kidnapping with Sexual Motivation in the Cuyahoga County Court of Common Pleas.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground he is custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). An Application for a Writ of Habeas Corpus shall not be granted unless it appears that the Petitioner “has exhausted all remedies available in the courts of the State.” 28 U.S.C. § 2254(b).

Petitioner raises one ground for relief in his petition: that he was denied his constitutional rights during sentencing on his plea. However, Petitioner indicates in his Petition that a post-conviction motion, and/or a habeas corpus petition, in which he raised this ground are still pending in Ohio courts. (*See* Petition at ¶¶11(d) and (e) regarding state post-conviction proceedings and other relief). Thus, this Petition is premature as the Petitioner has not fully exhausted his state court remedies.

### **Conclusion**

Accordingly, the Petitioner's Request to Proceed In Forma Pauperis (Doc. No. 2) is granted, but for the reasons stated above, his Petition for a Writ of Habeas Corpus is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith and that there is no basis on which to issue a certificate of appealability.

IT IS SO ORDERED.

s/ Christopher A. Boyko  
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CHRISTOPHER A. BOYKO  
UNITED STATES DISTRICT JUDGE

DATED: January 26, 2016